

SECOND REGULAR SESSION

# HOUSE BILL NO. 1677

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), MORGAN,  
McCREERY AND SWEARINGEN (Co-sponsors).

4929L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 561.026 and 577.054, RSMo, and to enact in lieu thereof three new sections relating to petitions to expunge certain criminal records.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 561.026 and 577.054, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 488.650, 561.026, and 610.140, to read as  
3 follows:

**488.650. There shall be assessed as costs a surcharge in the amount of five hundred  
2 dollars on all petitions for expungement filed under the provisions of section 610.140. Such  
3 surcharge shall be collected and disbursed by the clerk of the court as provided by sections  
4 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the general  
5 revenue fund.**

561.026. Notwithstanding any other provision of law **except for section 610.140**, a  
2 person who is convicted:

3 (1) Of any crime shall be disqualified from registering and voting in any election under  
4 the laws of this state while confined under a sentence of imprisonment;

5 (2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall  
6 be forever disqualified from registering and voting;

7 (3) Of any felony shall be forever disqualified from serving as a juror.

**610.140. 1. Notwithstanding any other provision of law and subject to the  
2 provisions of this section, any person may apply to any court in which he or she plead  
3 guilty or was found guilty of any of the offenses specified in subsection 2 of this section for**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 an order to expunge from all official records all recordations of his or her arrest, plea, trial,  
5 or conviction. A person may apply to have one or more offenses expunged so long as such  
6 person lists all the offenses he or she is seeking to have expunged in the same petition and  
7 so long as all such offenses are eligible under subsection 2 of this section.

8 2. The following offenses that occurred within the state of Missouri, and were  
9 prosecuted under the jurisdiction of a Missouri municipal court or associate or circuit  
10 court, are eligible to be expunged:

11 (1) Any misdemeanor offense, except any offense that requires registration under  
12 sections 589.400 to 589.425; and

13 (2) Any municipal offense or infraction.

14 3. The court may order expungement under this section only when the following  
15 criteria are met for each of the offenses listed in the petition for expungement:

16 (1) It has been at least eight years since the person making the application  
17 completed:

18 (a) Any sentence of imprisonment; or

19 (b) Any period of probation or parole; and

20 (2) The person has not been convicted of a misdemeanor or felony, or been placed  
21 on probation for a misdemeanor or felony during the eight-year period specified in  
22 subdivision (1) of this subsection. For purposes of this paragraph, violations of the traffic  
23 regulations provided under chapters 304 and 307 shall not be considered.

24 4. If the court determines, after hearing, that such person meets all the criteria set  
25 forth in subsection 3 of this section for each of the offenses listed in the petition for  
26 expungement the court shall enter an order of expungement. If the court determines that  
27 such person has not met the criteria for any of the offenses listed in the petition for  
28 expungement, the court shall enter an order dismissing the petition. Any person whose  
29 petition for expungement has been dismissed by the court for failure to meet the criteria  
30 set forth in subsection 3 of this section may refile such petition as soon as all the criteria has  
31 been met for each of the offenses listed in the petition.

32 5. Upon granting of the order of expungement, the records and files maintained in  
33 any administrative or court proceeding in a municipal court, an associate circuit or circuit  
34 court division of the circuit court for any offense ordered expunged under this section shall  
35 be confidential and only available to the parties or by order of the court for good cause  
36 shown. The effect of such order shall be to restore such person to the status he or she  
37 occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken  
38 place. No person as to whom such order has been entered shall be held thereafter under  
39 any provision of law to be guilty of perjury or otherwise giving a false statement by reason  
40 of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or

41 expungement in response to any inquiry made of him or her for any purpose whatsoever  
42 and no such inquiry shall be made for information relating to an expungement under this  
43 section.

44 6. Any person who wishes to have a record of arrests, pleas, trials, or convictions  
45 expunged under the provisions of this section may file a verified petition for expungement  
46 in the civil division of the circuit court in which the person plead or was found guilty as  
47 provided in subsection 1 of this section. The petition shall be dismissed if it does not  
48 include the following information:

49 (1) The petitioner's:

50 (a) Full name;

51 (b) Sex;

52 (c) Race;

53 (d) Driver's license number, if applicable;

54 (e) Social Security number; and

55 (f) Current address;

56 (2) Each offense charged against the petitioner for which the petitioner is  
57 requesting expungement;

58 (3) The date the petitioner was arrested for each offense;

59 (4) The name of the county where the petitioner was arrested for each offense and  
60 if any of the offenses occurred in a municipality, the name of the municipality for each  
61 offense;

62 (5) The name of the agency that arrested the petitioner for each offense;

63 (6) The case number and name of the court for each offense;

64 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a  
65 petition for expungement which will be forwarded to the central repository for the sole  
66 purpose of positively identifying the petitioner.

67 7. The petition shall name as defendants all law enforcement agencies, courts,  
68 prosecuting attorneys, central state repositories of criminal records, or others who the  
69 petitioner has reason to believe may possess the records subject to expungement for each  
70 of the offenses listed in the petition. The court's order of expungement shall not affect any  
71 person or entity not named as a defendant in the action.

72 8. The court shall set a hearing on the matter no sooner than thirty days from the  
73 filing of the petition and shall give reasonable notice of the hearing to each entity named  
74 in the petition.

75 9. If the court finds that the petitioner is entitled to expungement it shall enter an  
76 order directing expungement. A copy of the order shall be provided to each entity named  
77 in the petition.

78       **10. The Missouri supreme court shall promulgate rules establishing procedures for**  
79 **the handling of cases filed under the provisions of this section. Such procedures shall be**  
80 **similar to the procedures established in chapter 482 for the handling of small claims.**

81       **11. Nothing contained in this section shall prevent the court from maintaining**  
82 **records to ensure that an individual has only one petition for expungement granted under**  
83 **this section.**

2           [577.054. 1. After a period of not less than ten years, an individual who  
3 has pleaded guilty or has been convicted for a first alcohol-related driving offense  
4 which is a misdemeanor or a county or city ordinance violation and which is not  
5 a conviction for driving a commercial motor vehicle while under the influence  
6 of alcohol and who since such date has not been convicted of any other  
7 alcohol-related driving offense may apply to the court in which he or she pled  
8 guilty or was sentenced for an order to expunge from all official records all  
9 recordations of his or her arrest, plea, trial or conviction. If the court determines,  
10 after hearing, that such person has not been convicted of any subsequent  
11 alcohol-related driving offense, has no other subsequent alcohol-related  
12 enforcement contacts as defined in section 302.525, and has no other  
13 alcohol-related driving charges or alcohol-related enforcement actions pending  
14 at the time of the hearing on the application, the court shall enter an order of  
15 expungement. Upon granting of the order of expungement, the records and files  
16 maintained in any administrative or court proceeding in an associate or circuit  
17 division of the circuit court under this section shall be confidential and only  
18 available to the parties or by order of the court for good cause shown. The effect  
19 of such order shall be to restore such person to the status he or she occupied prior  
20 to such arrest, plea or conviction and as if such event had never taken place. No  
21 person as to whom such order has been entered shall be held thereafter under any  
22 provision of any law to be guilty of perjury or otherwise giving a false statement  
23 by reason of his or her failure to recite or acknowledge such arrest, plea, trial,  
24 conviction or expungement in response to any inquiry made of him or her for any  
25 purpose whatsoever and no such inquiry shall be made for information relating  
26 to an expungement under this section. A person shall only be entitled to one  
27 expungement pursuant to this section. Nothing contained in this section shall  
28 prevent the director from maintaining such records as to ensure that an individual  
29 receives only one expungement pursuant to this section for the purpose of  
30 informing the proper authorities of the contents of any record maintained  
31 pursuant to this section.

32           2. The provisions of this section shall not apply to any individual who  
33 has been issued a commercial driver's license or is required to possess a  
commercial driver's license issued by this state or any other state.]

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